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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Consortium for Street Children, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Access to Justice for Street Children*

In March 2012, during the UN Human Rights Council's 19th session, the UN Office of the High Commissioner for Human Rights presented its report entitled 'The protection and promotion of the rights of children living and/or working on the street' (A/HRC/19/35). The report recognises street-connected children as individuals 'for whom the street is a central reference point – one which plays a significant role in his/her everyday lives and identity'.

Street children and youth have particular vulnerabilities, due to the high levels of stigma and discrimination they encounter in their daily lives. Street children come into frequent contact with criminal justice systems around the world. With limited support structures in place, particularly from adult guardians, street children have very limited access to justice.

A 14 year old girl was accused of being a witch by her uncle and suffered daily beatings as a result. After a local pastor confirmed the accusation, she was forced out onto the streets. A member of the public found her and informed a local child rights organisation, who took her to the police. However, the police initially refused to investigate the case because she was a witch and a street child, and therefore was considered undeserving of support. The local NGO negotiated on her behalf and persuaded the police to take the case. Although the girl has now been found safe alternative accommodation, to date no action has been taken against either the uncle or the pastor, and there has been no investigation of the behaviour of the police.[1]

Criminalisation of street children:

The term 'street child' often carries with it negative connotations causing street children to be seen as delinquents or criminals. Children perceived as delinquents are more likely to be feared, excluded and viewed as a public nuisance, rather than children who should be protected and have access to justice. Such negative perceptions and criminalisation of street children is borne out in their repeated subjection to status offences and subsequent interaction with criminal justice systems. Street children face penal punishment for behaviour that they are forced to adopt to survive. For example, begging and prostitution are ways in which street children earn money to survive and yet in juvenile justice systems they are treated as crimes needing penal prosecution. Furthermore, it is not only actions by street children that are criminalised, but street children's transient lifestyle itself; their vagrancy and loitering is a frequent cause for arrest. For example, in Tanzania the Townships (Removal of Undesirable Persons) Ordinance 1944 legitimised such removal[2]. As such, street children are particularly likely to come into contact with a juvenile justice system in the first place, whether or not they have actually committed an offence. In fact, the majority of street children caught up in the criminal justice system are not in conflict with the law. They fall into two categories: children in perceived conflict with the law (i.e., engaging in status offences as described above) and homeless children deemed in need of care and protection. For example, in Nairobi, Kenya, during the month of November 2001, the Juvenile Court Register indicated that 85% of children passing through the court were 'charged' with being 'in need of care and protection'[3].

Police violence:

The police are a main point of contact for street children, particularly given that street children rarely have adult guardians to offer them support and guidance. However, police are also a main perpetrator of violence against street children. Many street children report constant harassment from the police, including extortion, threats, beatings, rape

[1] Case study provided by Stepping Stones Nigeria http://www.steppingstonesnigeria.org/

[2] Arusha Caucus for Children's Rights, *Police round-ups of street children in Arusha are unjust, inhumane and unconstitutional*, (2005), p.1, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/02/police-roundups-arusha1.pdf

[3] Marie Wernham, *An Outside Chance: Street Children and Juvenile Justice – An International Perspective*, CSC, (2004), pp.14-15, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/01/an-outside-chance-street-children-juvenile-justice.pdf

and even murder[4]. The criminalisation of street children induces police action to 'remove' children from public spaces, exemplifying societies' perceptions of street children as a public nuisance. Such round-ups take place across the world. Street children are forcibly picked up from the streets and taken into police custody, placed in a remand centre or dropped-off outside of the city. During this process, street children experience gross violations of their rights; the most visible being the physical violence that frequently permeates throughout the round-up process – from when the children are arrested to their incarceration or their being dropped-off outside of the city. In Papua New Guinea, one boy reported that a police officer, *'threw [him] in the car and put his foot on [his] face. He had on black boots that scratched [his] face and cut [his] mouth with [his] teeth and it bled... [the police officer] also punched [him] in the chest.'*[5] Despite such widespread abuse, police violence against street children is rarely investigated and impunity is commonplace[6].

Street children within the criminal justice system:

Once within a criminal justice system, street children experience heightened vulnerabilities to human rights abuses than other children. This is predominantly because street children have little or no adult support and very little or no recourse to legal advice and representation. Due to their lack of contact with an adult guardian and their lack of a permanent home address, street children are less likely to benefit from diversion schemes, release mechanisms such as bail and other alternatives to detention, even in countries where these options are available[7].

Recommendations:

UN human rights bodies have acknowledged street children's heightened vulnerabilities in juvenile justice systems: the UN OHCHR report 19/35 highlights one of the biggest challenges that street children face is negative perceptions[8]; and the UN Committee on the Rights of the Child's General Comment on *Children's rights in juvenile justice* acknowledges the importance of supporting vulnerable children, including street children, in juvenile justice systems[9]:

- Ensure national legislation are reviewed and recognises that children, who are in need of protection, are not considered offenders (including legislation dealing with abandonment, vagrancy, prostitution, migrant status, 'truancy' and runaways) but are dealt with under child protection mechanisms. This should also apply to emergency and/or security legislation to ensure that it is not used inappropriately to target children; for example, as threats to public order or in response to children living and/or working on the streets.[10]

- Governments should initiate public awareness campaigns to address the negative perceptions of street children. With a greater understanding of the realities of street children's lives and appreciation for the reasons why they engage in survival tactics, street children would face less criminalisation and less subjection to status offences

[4] Dr. Sarah Thomas de Benitez, *State of the World's Street Children: Violence*, CSC: London (2007), p.31, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/02/state-of-the-world-violence.pdf

[5] Human Rights Watch, *Making their own rules: Police beatings, rape, and torture of children in Papua New Guniea*, (2005), p.29, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/02/making-their-own-rules.pdf

[6] UN OHCHR report, *Protection and promotion of the rights of children working and/or living on the street,* (2012), para. 27, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/07/OHCHR-protection-promotion.pdf

[7] Marie Wernham, *An Outside Chance: Street Children and Juvenile Justice – An International Perspective,* CSC, (2004), p.37, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/01/an-outside-chance-street-children-juvenile-justice.pdf

[8] UN OHCHR report, *Protection and promotion of the rights of children working and/or living on the street,* (2012), para. 20, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/07/OHCHR-protection-promotion.pdf

[9] UN CRC General Comment No. 10, *Children's rights to juvenile justice,* (CRC/C/GC/10) (2007), available here: http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf

[10] For more information on the UNCRC's discussion day on State Violence Against Children go to: http://www2.ohchr.org/english/bodies/crc/discussion.htm

and police violence. They would have better access to justice, unimpeded by stigmatisation and discrimination.

- As the police are a main point of interaction with street children in criminal justice systems around the world, sensitisation programmes that work with the police to dispel negative stereotypes of street children have been successful at establishing better access to justice for street children. The UN OHCHR 19/35 report indicates the positive role that police can play in street children's lives: *training police can play a crucial role in positive interventions for street-connected children aimed at rebuilding their trust and reintegration into communities.*[11]

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*Action for Brazil's Children (ABC) Trust, Action for Children in Conflict, Action International Ministries, ALUCOP, Amazing Children Uganda, Amnesty International (Children's Human Rights Network), Amos Trust, Apprentis d'Auteuil, Azad Foundation, Badhte Kadam, Calcutta Hope, Caretakers of the Environment Tanzania (COET), CEADEF, Centre for Equity Studies, Charlotte Miller Art Project, Cheka Sana Children's Trust, CHETNA, Child Hope UK, Child to Child Trust, Children in Crisis, Children in Hunger, Children Unite, Congo Children Trust, Depaul Foundation, Dhaka Ahsania Mission UK, Edith Wilkins Street Children Foundation, Emerge Poverty Free, Focus Ireland, Frishta Children's Village, Glad's House, Happy Child, Hope for Children, Hope Foundation, International Childcare Trust, International Children's Trust, International HIV AIDS Alliance, Jubilee Action, Juconi Ecuador, Keeping Children Safe Coalition, Kidasha, Latin American Foundation for the Future (LAFF), LittleBigHelp, Mi Arca, Mkombozi Centre for Street Children, Moroccan Children's Trust, Plan International UK, Railway Children, Reach Within, Retrak, SAFIRE, S.A.L.V.E. International, Save the Children UK, SKCV Children's Trust, SOS Children's Villages, SOWED, Stepping Stones Nigeria, Street Action, Street Child Africa, Street Child, Street Child United, StreetInvest, Street Kids Direct, Street Kids International, Streets Ahead Rwanda, StopAids, Students Supporting Street Kids, Sudanese Association for Humanitarian Aid (South Sudan), The Hummingbird Trust, Toybox, ViaNiños UK, Walou, War Child UK NGO(s) without consultative status, also share the views expressed in this statement.

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[11] UN OHCHR report, *Protection and promotion of the rights of children working and/or living on the street,* (2012), p.33, available here: http://www.streetchildrenresources.org/wp-content/uploads/2013/07/OHCHR-protection-promotion.pdf